IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WP(C).No. 29857 of 2007(D)

PETITIONER:

P.K.MOHAMMED, PULIKKAL KUTTIYIL HOUSE,
P.O.CHELEMBRA, MALAPPURAM DISTRICT.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENT:

THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, MALAPPURAM.

BY GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON 20/11/2007 DELIVERED THE FOLLOWING:

WPC NO.29857/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PROCEEDINGS DATED 23.9.06.

EXT.P2: TRUE COPY OF THE NOTICE DATED 23.7.07 INTIMATING THE TIMING CONFERENCE.

EXT.P3: TRUE COPY OF THE APPLICATION DATED 13.9.07.

EXT.P4: TRUE COPY OF THE CHALLAN DATED 13.9.07.

EXT.P5: TRUE COPY OF THE CHARGE MEMO DATED 21.9.07.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 29857 OF 2007 D
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Dated this the 20th day of November, 2007

J U D G M E N T

By Ext.P1, permit granted to the petitioner subject to settlement of timings. It is stated that, by Ext.P2, timing was also settled in implementation of Ext.P1. Thereafter, petitioner submitted Ext.P3 for issuing a fitness certificate for the vehicle and Ext.P4 is the chelan for the same. While so, Ext.P5 charge memo was issued by the respondent on certain allegations against the petitioner. It is submitted that since the petitioner has not compounded the offence alleged in Ext.P5, the respondent is not acting upon Exts. P3 and P4. In the aforesaid circumstances, this writ petition has been filed for quashing Ext.P5 charge memo and for directing respondent to issue granted permit to the petitioner's vehicle.

2. It is true that Ext.P5 charge memo contains certain allegations which are penal in nature and if proved the petitioner has also to be made liable for the tax concerning the period. However, the petitioner swears by his innocence and pleads that the contents of Ext.P5 are factually erroneous. If that be his attitude, then the only option available for the respondent is to

proceed further with Ext.P5 in the manner provided.

3. Since permit has been granted subject to settlement of timing and as timing schedule has also been fixed, I do not find any justification for the delay in finalising the proceedings. It is a matter to be considered by the respondent as to whether in view of Ext.P5 charge memo fitness certificate could be issued. Though the petitioner has filed Ext.P3 application in this behalf, that has not been adverted to till date.

Therefore, it is essentially for the respondent to first decide as to whether the fitness certificate should be issued or not. It having not been done, I dispose of this writ petition directing that the respondent shall take up and consider Ext.P3 application for fitness certificate submitted by the petitioner. This the respondent shall do, as expeditiously as possible, at any rate within 3 weeks of receipt of a copy of this judgment.

ANTONY DOMINIC, JUDGE.

Rp